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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/420,918  | 10/20/1999  | DAVID E. ROSENSTEIN  | COVDP001            | 3432             |
| 758   | 7590        | 02/08/2007           | EXAMINER            |                  |
| FENWICK & WEST LLP<br>SILICON VALLEY CENTER<br>801 CALIFORNIA STREET<br>MOUNTAIN VIEW, CA 94041 |             |                      | RYMAN, DANIEL J     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2616                |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE  | MAIL DATE   | DELIVERY MODE        |                     |                  |
| 3 MONTHS  | 02/08/2007  | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                 |                   |
|------------------------------|-----------------|-------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)      |
|                              | 09/420,918      | ROSENSTEIN ET AL. |
|                              | Examiner        | Art Unit          |
|                              | Daniel J. Ryman | 2616              |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 January 2007.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,5-19,21,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,5-12,16-19 and 21 is/are rejected.
- 7) Claim(s) 13-15,23 and 24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 2, 5-12, 16-19, and 21 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's arguments, see Response, filed 1/19/2007, with respect to claims 13-15, 23, and 24 have been fully considered and are persuasive. The rejection of these claims has been withdrawn.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5-12, 16-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nodoushani et al. (USPN 6,563,816) in view of Gerszberg et al. (USPN 6,510,152).

5. Regarding claim 1, Nodoushani discloses a system using derived voice over data technology to provide analog voice telephony to a client premise, comprising: a derived voice over data termination device (Fig. 1 and col. 5, lines 13-23, where the combination of the home LAN hub (HLH, ref. 20), the telephone modules (ref. 16), and data modules (ref. 18) is interpreted to be the "derived voice over data termination device"), said derived voice over data termination device configured to convert between base band signals and derived voice over data signals utilizing derived voice over data technology (Fig. 1 and col. 5, lines 13-23, where the

telephone modules “conver[t] analog voice signals [i.e. base band signals] from a connected telephone 24 to digital signals” and the HLH converts the digital signals into ATM cells, i.e. “derived voice over data signals”); a connection between the client premise and the derived voice over data termination device, wherein the connection between the client premise and the derived voice over data termination device is over a twisted wire pair and carries analog frequencies (Fig. 1 and col. 5, lines 13-23, where the wiring is “existing home telephone wiring,” i.e. twisted wire pair); and a digital subscriber line access multiplexer coupled between the derived voice over data termination device and one of an ATM switch, a frame relay switch, and a router (Fig. 1 and col. 5, lines 30-46, where a DSLAM is coupled between the HLH and an ATM switch, ref. 44), the digital subscriber line access multiplexer being configured to multiplex derived voice over data signals to and from the derived voice over data termination device (col. 5, lines 40-46, where it is implicit that a DSLAM is configured to multiplex the signals).

Nodoushani does not expressly disclose that the derived voice over data termination device is located outside of the client premise. Gerszberg teaches, in a system for providing communication services through a multiplexing apparatus, locating a device for distributing communication signals throughout a client premises outside the client premises to enable one such device to be used by multiple client premises, thereby reducing costs (col. 30, lines 28-31). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to locate the derived voice over data termination device outside of the client premises to enable one such device to be used by multiple client premises, thereby reducing costs.

6. Regarding claim 2, Nodoushani in view of Gerszberg discloses that said connection between the client premise and the derived voice over data termination device is powered by said

derived voice over data termination device (Nodoushani: col. 7, lines 18-25, where the HLH provides power to the wiring in the home).

7. Regarding claim 5, Nodoushani in view of Gerszberg discloses that the derived voice over data termination device is connected to at least one port of the digital subscriber line access multiplexer, each of said at least one port is selected from a group consisting of digital subscriber line (DSL), DS1, DS3, OC-3, OC-12, Ethernet, E3, E1, and OC48 (Nodoushani: Fig. 1, ref 22: ADSM modem, where the port supports ADSL).

8. Regarding claim 6, Nodoushani in view of Gerszberg discloses that the DSL includes asymmetric DSL (ADSL), single line DSL (SDSL), very high rate DSL (VDSL), high bit-rate DSL (HDSL), and rate adaptive DSL (RADSL) (Nodoushani: Fig. 1, ref 22: ADSM modem).

9. Regarding claim 7, Nodoushani in view of Gerszberg discloses that the derived voice over data termination device is selected from the group consisting of voice over ATM, voice over data network, voice over IP, and voice over frame relay termination devices (Nodoushani: col. 5, lines 21-23, where the device is a voice over ATM device).

10. Regarding claim 8, Nodoushani in view of Gerszberg discloses that the derived voice over data termination device is located in a wire center (Gerszberg: col. 30, lines 28-31, where a device used for multiple client premises is, as broadly defined, a “wire center”).

11. Regarding claim 9, Nodoushani in view of Gerszberg discloses that the derived voice over data termination device is configured to receive and generate from base band voice signals packetized digital voice data (Nodoushani: Fig. 1 and col. 5, lines 21-29, where the device receives packetized voice data and generated packetized voice data from base band voice signals).

12. Regarding claim 10, Nodoushani in view of Gerszberg discloses a customer premise equipment located at the client premise (Nodoushani: Fig. 1, ref. 24, where telephones, i.e. customer premise equipment, is located at the client premise), wherein the customer premise equipment is coupled to the connection between the client premise and the derived voice over data termination device (Nodoushani: Fig. 1, where the telephones are coupled to the connection between the client premise and the HLH).

13. Regarding claim 11, Nodoushani in view of Gerszberg discloses that the customer premise equipment is configured to receive base band voice signals and digital data signals (Nodoushani: Fig. 1, where the telephones, ref. 24, receive base band voice signals, and the computer, ref. 26, receives digital data).

14. Regarding claim 12, Nodoushani in view of Gerszberg suggests that the connection between the client premise and the derived voice over data termination device carries both base band voice signals and digital data signals (Nodoushani: Fig. 1, where any connection between the client premise and the device, as outlined in claim 1, will carry both the voice and data signals).

15. Regarding claim 16, Nodoushani in view of Gerszberg discloses that the derived voice over data termination device is a voice over data termination device configured to support transmission to one of a multiplexer and a switch (Nodoushani: Fig. 1, where the device supports transmission to a DSLAM), and wherein the voice over data termination device is configured to support transmission utilizing digital subscriber line (DSL), DS 1, DS3, OC-3, OC-12, Ethernet, E3, El, and OC48 (Nodoushani: Fig. 1, ref. 22, where the transmission uses ADSL).

16. Regarding claim 17, Nodoushani discloses a derived voice over data packet network, comprising: a derived voice over data termination device coupled to a client premise equipment over a twisted wire pair (Fig. 1 and col. 5, lines 13-23, where the combination of the home LAN hub (HLH, ref. 20), the telephone modules (ref. 16), and data modules (ref. 18) is interpreted to be the “derived voice over data termination device” and where the device is coupled to the client premise equipment using home wiring, i.e. twisted wire pair), the derived voice over data termination device being configured to convert between base band signals and derived voice over data signals utilizing derived voice over data technology (Fig. 1 and col. 5, lines 13-23, where the telephone modules “conver[t] analog voice signals [i.e. base band signals] from a connected telephone 24 to digital signals” and the HLH converts the digital signals into ATM cells, i.e. “derived voice over data signals”); a derived voice over data switch coupled to the derived voice over data termination device and to a public switched telephone network (Fig. 1, ref. 44, where the ATM switch, ref. 44, is coupled to the device and to the PSTN); and a digital subscriber line access multiplexer coupled between the derived voice over data termination device and the derived voice over data switch, (Fig. 1 and col. 5, lines 30-46, where a DSLAM is coupled between the HLH and an ATM switch, ref. 44), the digital subscriber line access multiplexer being configured to multiplex derived voice over data signals to and from the derived voice over data termination device (col. 5, lines 40-46, where it is implicit that a DSLAM is configured to multiplex the signals).

Nodoushani does not expressly disclose that the derived voice over data termination device is located in a wire center. Gerszberg teaches, in a system for providing communication services through a multiplexing apparatus, locating a device for distributing communication

signals throughout a client premises outside the client premises to enable one such device to be used by multiple client premises, thereby reducing costs (col. 30, lines 28-31, where a devices used for multiple clients is, as broadly defined, a “wire center”). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to locate the derived voice over data termination device in a wire center to enable one such device to be used by multiple client premises, thereby reducing costs.

17. Regarding claim 18, Nodoushani in view of Gerszberg discloses that the derived voice over data switch is coupled to the public switched telephone network via a voice gateway and a voice switch (Fig. 1 and col. 5, lines 49-58, where the switch is coupled to the PSTN using an AAL1 module, ref. 46, i.e. a “voice gateway,” and a voice switch, ref. 50).

18. Regarding claim 19, Nodoushani in view of Gerszberg discloses a regional switching center, the regional switching center includes the derived voice over data switch (Nódoushani: Fig. 1, where the ATM switch is located, as broadly defined, in a “regional switching center”).

19. Regarding claim 21, Nodoushani discloses a method for providing base band voice telephony to a client telephone, comprising: providing a derived voice over data termination device (Fig. 1 and col. 5, lines 13-23, where the combination of the home LAN hub (HLH, ref. 20), the telephone modules (ref. 16), and data modules (ref. 18) is interpreted to be the “derived voice over data termination device”), the derived voice over data termination device being configured to convert between base band signals and derived voice over data signals utilizing derived voice over data technology (Fig. 1 and col. 5, lines 13-23, where the telephone modules “conver[t] analog voice signals [i.e. base band signals] from a connected telephone 24 to digital signals” and the HLH converts the digital signals into ATM cells, i.e. “derived voice over data

signals"); providing a base-band analog connection between the client telephone and the derived voice over data termination device over a twisted wire pair (Fig. 1 and col. 5, lines 13-23, where the wiring is "existing home telephone wiring," i.e. twisted wire pair); transmitting base-band analog voice signals between the client telephone and the derived voice over data termination device (col. 5, lines 13-23); and transmitting derived voice over data signals between the derived voice over data termination device and a voice gateway connected to a public switched telephone network (Fig. 1 and col. 5, lines 49-58, where the signals are transmitted to the PSTN using an AAL1 module, ref. 46, i.e. a "voice gateway," and a voice switch, ref. 50) by multiplexing the derived voice over data signals through a digital subscriber line access multiplexer, the digital subscriber line access multiplexer being coupled between the derived voice over data termination device and the voice gateway (Fig. 1 and col. 5, lines 30-46, where a DSLAM is coupled between the HLH and the AAL1 module).

Nodoushani does not expressly disclose that the derived voice over data termination device is located in a wire center. Gerszberg teaches, in a system for providing communication services through a multiplexing apparatus, locating a device for distributing communication signals throughout a client premises outside the client premises to enable one such device to be used by multiple client premises, thereby reducing costs (col. 30, lines 28-31, where a device used for multiple clients is, as broadly defined, a "wire center"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to locate the derived voice over data termination device in a wire center to enable one such device to be used by multiple client premises, thereby reducing costs.

*Allowable Subject Matter*

20. Claims 13, 14, 23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not disclose or fairly suggest having a POTS splitter located between the client premise and the derived voice over data termination device.

21. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not disclose or fairly suggest having the connection between the client premise and the derived voice over data termination device include a main distribution frame coupled between the derived voice over data termination device and the client premise.

*Conclusion*

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel J. Ryman  
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